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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/812,541	03/30/2004	Awdhoot Vasant Kerkar	FDN-2831	3421

7590 07/25/2007  
William J. Davis  
Building Materials Investment Corporation,  
Legal Department  
1361 Alps Road  
Wayne, NJ 07470

EXAMINER
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CHEVALIER, ALICIA ANN

ART UNIT	PAPER NUMBER
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1772

MAIL DATE	DELIVERY MODE
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07/25/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/812,541

Applicant(s)

KERKAR ET AL.

Examiner

Alicia Chevalier

Art Unit

1772

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 16 May 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) 11-18 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_

### **RESPONSE TO AMENDMENT**

1. Claims 1-18 are pending in the application, claims 11-18 are withdrawn from consideration.
2. Amendments to the claims filed on May 16, 2007, have been entered in the above-identified application.

### ***WITHDRAWN REJECTIONS***

3. The 35 U.S.C. §103 rejection of claims 1-10 as over Fasold et al. (US Patent No. 2,326,724) and evidenced by Wikipedia, made of record in the office action mailed January 16, 2007, pages 2-4, paragraph #5 has been withdrawn due to Applicant's amendment in the response filed May 16, 2007.

### ***NEW REJECTIONS***

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

### ***Claim Rejections - 35 USC § 103***

5. Claims 1-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Algrim et al. (U.S. Patent No. 4,738,884) in view of Fasold et al. (U.S. Patent No. 2,326,724) and evidenced by Wikipedia.

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Regarding Applicant's claim 1, Algrim discloses a roofing shingle (*col. 5, line 19*) comprising a top and bottom surface (*figures 1 and 2*). The bottom surface is provided with a release coating of a continuous film (*col. 5, line 20 and 33-46*). The release coating is disposed only on a pressure point portion of the bottom surface (*figure 2, ref. #14*). The release material prevents stacked shingles from sticking together during packing (*col. 5, lines 25-30*).

Algrim fails to disclose that the release coating has particles with a good to perfect basal cleavage.

Fasold discloses a roofing shingle (*col. 1, lines 8-9*) comprising a top and bottom surface (*figure 4*). The bottom surface is provided with a release coating of a continuous film of particles (*col. 13, lines 33-37 and col. 1, lines 26-31*).

Fasold further discloses that the particles on the bottom surface prevent sticking of the adjacent layers of the roofing material in a package (*col. 1, lines 26-31*). Basal cleavage is cleavage parallel to the base of a crystal, or to the plane of the lateral axes making the material feel slippery (*see wikipedia print out*).

Algrim and Fasold are analogous because they both disclose release materials for roofing articles.

It would have been obvious to one of ordinary skill in the art at the time of the invention to add the particles of Fasold to the release material of Algrim in order to insure that the bottom surface of an adjacent layer of roofing material does not stick together in a package.

Furthermore, the exact basal cleavage of the particles is deemed to be a result effective variable with regard to the release property of the particles. It would require routine experimentation to determine the optimum value of a result effective variable, such as basal

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cleavage, in the absence of a showing of criticality in the claimed basal cleavage. *In re Boesch*, 205 USPQ 215 (CCPA 1980), *In re Woodruff*, 16 USPQ2d 1934, 1936 (Fed. Cir. 1990). One of ordinary skill in the art would have been motivated to use a good to perfect basal cleavage in order to increase the release properties, i.e. slipperiness, of the particles and prevent sticking.

Regarding Applicant's claim 2, in figure 2 of Algrim it shows that the pressure point portion is immediately above and below a top edge of the bottom surface, where the top edge overlaps a bottom portion of a headlap portion of the top surface.

Regarding Applicant's claim 3, Algrim discloses that the roofing shingle is a shingle selected from the group consisting of a laminated shingle and a strip shingle (*figures 1-4*).

Regarding Applicant's claims 4 and 5, Fasold discloses that the particles are in the class phyllosilicates, such as talc (*col. 1, lines 26-27*).

Regarding Applicant's claims 6-10, Algrim discloses a wherein the top surface of each roofing shingle faces the bottom surface of its adjoining roofing shingle (*col. 5, lines 28-32 and figure 4*).

#### ***ANSWERS TO APPLICANT'S ARGUMENTS***

6. Applicant's arguments in the response filed May 16, 2007 regarding the previous rejection of record have been considered but are moot since the rejections have been withdrawn.

***Conclusion***

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alicia Chevalier whose telephone number is (571) 272-1490. The examiner can normally be reached on Monday through Friday from 8:00 am to 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rena Dye, can be reached on (571) 272-3186. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

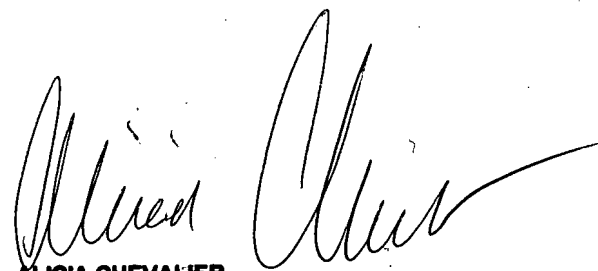
Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR

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system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ac

7/21/07



**ALICIA CHEVALIER**  
**PRIMARY EXAMINER**